IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

APPEAL FROM ORDER No 151 of 1999

For Approval and Signature:

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

GUJARAT ELECTRICITY BOARD

Versus

SHRI BHAVANESHWARI QUARRY WORKS - ITS PARTNERS

Appearance:

1. Appeal from Order No. 151 of 1999

MR MD PANDYA for Appellant No.

..... for Respondent No. 1

NOTICE SERVED for Respondent No. 1/1-1/2

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 11/01/2005

ORAL JUDGEMENT

1. The appellant Gujarat Electricity Board has preferred this Appeal from Order against the order dated 10/12/1998 passed by the learned 3rd Joint Civil Judge (S.D.), Himmatnagar in Special Civil Suit No.24 of 1998, whereby the application for temporary injunction against disconnection of electric supply was allowed.

2. Mr.M D Pandya learned advocate for the appellant Board has submitted that it is a case of faulty meter on account of which incorrect reading of energy consumption was shown, and therefore, under the provisions of Section 26(6) of the Indian Electricity Act, 1910 such a dispute can be resolved by the Electrical Inspector only and the appellant Board has no authority to give supplementary bill without getting the decision of the Electrical Inspector on that point.

3. I have heard Mr.M D Pandya learned advocate for the appellant Board. Though served none appeared for the respondents. The contention raised by Mr.Pandya deserves consideration inasmuch as by passing the impugned order, the trial Court has restrained the appellant Board from disconnecting the electricity supply of the original plaintiffs. Moreover, in view of the settled legal position, the trial Court ought not to have granted stay without imposing any reasonable condition against the consumption of electric energy. It should have granted stay on condition of payment of the amount which may be kept as deposit before the Court itself or before the appellant Board subject to the final outcome of the suit. But that has not been done and injunction against the consumption of electric energy has been granted which is not permissible. In above view of the matter, the impugned order passed by the trial Court is required to be quashed and set aside.

4. In the result, the Appeal from Order is allowed. The order dated 10/12/1998 passed by the learned 3rd Joint Civil Judge (S.D.), Himmatnagar is quashed and set aside. The appellant Board is directed to issue Notice to the original plaintiffs for making payment of the supplementary bill in question. The said payment shall be made within a period of three weeks from the date of the issuance of the said Notice to the original plaintiffs. If payment as aforesaid is not made by the original plaintiffs, the appellant Board shall be at liberty to disconnect the electric supply. The Appeal from Order stands disposed of accordingly.

(K. S. Jhaveri, J.)

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